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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	MM Docket No. 99-25
)	
Creation of a Low)	RM-9208
Power Radio Service)	RM-9242
)	
)	

**COMMENTS OF
RICK HERRICK AND PARALLEL BROADCASTING, INC.**

I am the President and General Manager of Parallel Broadcasting, Inc., the licensee of Station KBHR, Big Bear City, CA. Although I and my station are members of the Southern California Broadcasters Association ("SCBA"), and are participating in the comments being filed today on behalf of the SCBA, I want to express my personal views on several aspects the Commission's low power FM proposals found in its *Notice of Proposed Rule Making*. I do so on my firm belief that Commission adoption of its LPFM proposals actually will work against the diversity and localism goals of the FCC, particularly in smaller markets such as mine.

It is with grave concern that I file these comments. If the FCC votes to inaugurate an LPFM service, that act will crush the program diversity gains made in the

period from 1980 until today, during which more than 3,500 FM radio stations were added to the nationwide station count.

KBHR is one of the newest of these stations. Parallel Broadcasting is a small corporation consisting of friends and family who are now new station owners. Today, we operate a radio station that serves a community of 10,000 people. We compete with two radio stations legally licensed to this area, one "pirate radio" station that sells advertising, a low power TV station, a weekly newspaper and over a dozen monthly publications. It should be obvious that we didn't become radio owners to get rich.

In my view, the FCC is attempting to abolish illegal pirate radio stations not just by closing them down through enforcement actions. In this rulemaking proceeding the Commission proposes, essentially, to eliminate pirate radio stations by *licensing* them, and by making it possible for any open frequency to be captured by them. Such an FCC decision would confer benefits to those persons (and their supporters) who have violated FCC rules.

Many times the low power proposals have been cited by FCC commissioners as the method to correct the ills created by the consolidation resulting from the 1996 Telecommunications Act. The reality is that creating an LPFM service will not affect the markets where the the FCC rules adopted under 1996 Telecommunications Act

provisions have led to ownership consolidation. These generally urban markets largely will be exempt from this intrusion of LPFM because they lack open frequencies.

The impact of low power radio would be on *small and rural radio markets*, such as ours, which have open frequencies available on the radio dial. This would be the fertile ground for the spread of LPFM stations. It is where small station owners would be unable to compete fairly against LPFM facilities that likely would not be governed by the same FCC rules and restrictions as apply to full-service stations like ours.

The advertising revenue pool for radio in a small market is *very small*. Further decreasing this pool would necessitate cutting community services and programs. Currently on KBHR, we play local recording artists, serve the community with thousands of free public service spots and other announcements each year and air local sporting events, public meetings, local political interviews and even lost animal reports. In order to save money, stations like ours will have no choice but to offer less local programming and implement the use of nationally-syndicated programs which will *not* promote either program diversification or broadcast localism. Furthermore, this new use of syndicated programs will result in fewer broadcasting jobs and fewer opportunities for our local citizenry to be involved with our station and with our programming.

In addition, I have an immense fear that the introduction of LPFM will allow these entrepreneurs to continue their unlawful behavior with near impunity. In light of my personal experience, I truthfully can attest to the fact that FCC enforcement in our small market has been nonexistent for the 43 months that we have been on the air.

For example, many times I have complained by phone and in writing regarding a local low power TV station that consistently has violated FCC rules. Only after meeting and speaking with FCC Compliance and Information Bureau Chief Richard Lee at the NAB99 Convention this past April, did we get *any* response with an acknowledgment of my complaints. Unfortunately, to date, nothing further has been done by the Commission.

With this in mind, I fear that the FCC's unwillingness to take action against those committing current violations is a strong indication of how they will handle -- or not handle -- an onslaught of new low power FM stations. If, for example, new low power FM stations are to be licensed as non-commercial operations, who will enforce that condition? If the FCC intends to create radio anarchy, creation of an LPFM service is the best first step.

Furthermore, I have yet to understand why only the FM band was targeted by the Commission for these low power facilities. In paragraph 17 of the FCC *Notice* the Commission says it has concerns about adding to the current congestion on the AM

band through operation of low power AM facilities. That paragraph goes on to refer to the efforts the FCC is taking to reduce AM interference. But, how at the same time can the Commission propose to allow LPFM to increase interference levels in the FM band? Wouldn't a better choice have been to allow the FM band to remain as interference-free as possible and perhaps license *very* low power AM facilities that would provide a *very* limited service range, perhaps only during daytime hours?

I also cannot fathom why the FCC would propose rules under which a small market station cannot apply for a "low power" license anywhere in the country, but a low power licensee could own any number of LPFM facilities, provided that they operate in different "markets." A low power FM station operating at 1000 watts, or even 10 watts at 30 meters (HAAT), in a market the size of Big Bear City, California, would cover the entire community. Low power radio should never become the competitive equivalent of a Class A, full-power and full-service station.

Like any other federal agency entrusted with the care of an important, valuable natural resource, the FCC must act in a manner that preserves and protects the public service use and potential of that resource. No other government agency would allow over-fishing, over-timbercutting or over-polluting in pursuit of a near-term abundance of fish, logs or industrial growth at the certain, long-term expense of the resource itself.

Through LPFM, the Commission undoubtedly would be sacrificing spectrum integrity and true broadcast localism in the name of blind pursuit of ownership diversification.

This past April our station became the recipient of a coveted "Crystal Award" conferred by the National Association of Broadcasters. The Crystal Awards recognize year-round commitment to excellence in community service. I urge the FCC to help ensure the ability of stations like ours to continue to provide this local service by rejecting its low power proposals and by strongly supporting local radio -- particularly the 3500 FM radio stations that have emerged over the last two decades.

Respectfully submitted,



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